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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,313	02/19/2004	George Zampetti	SYMM1210-1	7617
38396	7590	10/04/2004	EXAMINER	
JOHN BRUCKNER, P.C. 5708 BACK BAY LANE AUSTIN, TX 78739			NGUYEN, MINH T	
			ART UNIT	PAPER NUMBER
			2816	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,313	Applicant(s) ZAMPETTI ET AL.	
	Examiner Minh Nguyen	Art Unit 2816	<i>AW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 31-33 and 43-48 is/are rejected.
- 7) ☒ Claim(s) 34-42 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/19/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the application is a divisional of the application 09/989,315 which is now US Patent No. 6,765,424, this information should be updated, i.e., inserted the phrase --, now US Patent No. 6,765,424 --.

Appropriate correction is required.

Claim Objections

2. Claims 32-33 are objected to because of the following informalities:

In claim 32, line 1, "can" should be deleted because it is not a positive term.

In claim 33, line 1, "can" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 44-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As per claim 44, phrase " simple logic interface " renders the claim indefinite because it is unclear how to determine if a logic interface has a simple or complex structure.

As per claim 45, the claim is indefinite because the dependency status is ambiguous. If the claim is seen as an independent claim, the format for writing causes confusion in determining fee payment (the evidence is that the applicant is paying depended claim fee). If the claim is the dependent claim, it is rejected under 112 4th paragraph for failing to further limit claim 31.

As per claims 46-48, these claims are rejected for the same reason noted in claim 45.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-33 and 43-48 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,078,595, issued to Jones et al.

As per claim 31, Jones discloses an apparatus (Fig. 2), comprising:

a first input clock digital phase-locked loop (PLL 26 in the timing module 12A);

a second input clock digital phase-locked loop (PLL 26 in the timing module 12B);

a stratum clock state machine coupled to the first input clock digital phase-locked loop and to the second input clock digital phase-locked loop (stratum STR3, column 4, line 36); and

a main clock phase-locked loop (PLL 62 in the circuit block 20) coupled to the first input clock digital phase-locked loop, to the second input clock digital phase-locked loop and to the

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stratum clock state machine (as shown, also see description in column 4, line 58 through column 5 line 7).

As per claim 32, the recited limitation is shown in Fig. 6, and described in column 9, lines 51-56).

As per claim 33, also the recited limitation is shown in Fig. 6, and described in column 9, lines 30-67).

As per claim 43, Jones teaches a variable of BIO 20 up to ten (column 7, lines 46-50), the recited limitation is met when the number of BIO 20 is eight.

As per claim 44, Fig. 2 shows interfacing of other elements to the stratum clock state machine is really a “simple logic interface”.

As per claims 45-48, the recitations are merely intended use of the apparatus of claim 1, therefore, no patentability is given.

Allowable Subject Matter

5. Claims 34-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Claims 34-42 are allowable because the prior art of record fails to disclose or suggest the inclusion of a numerically controlled oscillator coupled to the main clock PLL as recited in claim 34.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Nguyen whose telephone number is **571-272-1748**. The examiner can normally be reached on Monday, Tuesday, Thursday, Friday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on 571-272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



9/24/04

Minh Nguyen
Primary Examiner
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